

1. PARTIES

The Montana Women's Prison (**MWP**) and YWCA Billings (**CONTRACTOR**) enter into this Memorandum of Understanding (**#MOU – YWCA Billings PREA Advocate**). The parties' names, addresses, and telephone numbers are as follows:

Montana Department of Corrections
Montana Women's Prison
701 South 27th Street
Billings, MT 59101
(406) 247-5100

YWCA Billings
909 Wyoming Ave.
Billings, MT 59101
406-252-6303

DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS MEMORANDUM OF UNDERSTANDING AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

2. DUTIES/RESPONSIBILITIES OF DEPARTMENT AND CONTRACTOR

Whereas, the United States Department of Justice has promulgated national standards for the implementation and enforcement of the Prison Rape Elimination Act of 2003, Public Law 108-79, 117 Stat. 973, *et seq.*, 45 U.S.C. 15601, *et seq.* (PREA); and

Whereas, the PREA national standards are found in the regulation at 28 C.F.R. Part 115; and

Whereas, Subsection (d) of Section 115.21 of 28 C.F.R. Part 115 requires MWP to attempt to make available to the victim of sexual abuse a victim advocate from a rape crisis center to accompany and support the victim through the forensic medical examination process and investigatory interviews to provide emotional support, crisis intervention, information, and referrals; and

Whereas, Section 115.53 of 28 C.F.R. Part 115 requires MWP to provide access to outside victim advocates for emotional support services related to sexual abuse; and

Whereas, YWCA, as a community-based organization that provides advocacy services to victims of sexual abuse and sexual assault, has agreed to provide crisis intervention and victim advocacy services to residents in the legal and physical custody of MWP.

It is agreed between the Montana Women's Prison and YWCA as follows:

1. Montana Women's Prison agrees to:

- A. Make involvement of certified rape crisis advocates a component of the MWP's standard response to a report of sexual abuse and/or request for help from a survivor of sexual assault.
- B. Any time that an incident or allegation of sexual abuse is discovered or reported which requires a forensic medical exam, the MWP will transport the victim of sexual abuse and/or sexual assault to a Billings hospital for a forensic medical exam, and to meet with a rape crisis advocate from the YWCA.
- C. If an incident occurs that does not necessitate a forensic medical exam, the MWP will ensure that the victim receives a medical evaluation and any needed medical treatment; a mental health evaluation; and contact information for the YWCA.

- D. Enable reasonable communication between inmates and the YWCA in as confidential a manner as possible. MWP will determine, in its sole discretion, whether the communication opportunity is reasonable in light of housing assignment, physical facility limitations, safety and security concerns, and operational considerations including staffing levels. MWP will also determine, in its sole discretion, whether the communication opportunity is as confidential as is possible in the circumstances of a secure prison facility. In that regard, MWP will facilitate as private an environment for such communications as is practical as determined by MWP in its sole discretion. Inmate phone calls (initiated or received by the inmate) are recorded pursuant to established Montana Department of Corrections policy subject to limited established exceptions and protocols. Inmate mail sent to the YWCA or from the YWCA will be treated as legal or privileged correspondence and may not be read by staff.
- E. Notify inmates, prior to giving them access to communications with the YWCA, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- F. Respect the confidential nature of communication between YWCA and inmates residing at MWP.
- G. Offer training as needed to the YWCA's victim advocates who are providing services pursuant to this MOU. Training will cover the standards relevant to the MOU, boundaries advocates must keep with inmates, and general PREA and facility information.
- H. Ensure that YWCA advocates are cleared to enter MWP to meet with inmates on a case-by-case basis. Provide logistical needs, such as private meeting space for counseling sessions.
- I. Communicate any questions or concerns to YWCA staff.

2. YWCA agrees to:

- A. Respond to requests from the MWP to provide advocacy when inmates are brought to a Billings area medical facility for sexual assault forensic exams.
- B. Provide emotional support services and crisis intervention contacts to victims of sexual assault at the MWP, as resources allow.
- C. Screen the individuals providing support services to inmate victims of sexual abuse or sexual assault for appropriateness to serve in that capacity. No YWCA employee who has a felony criminal record or a felony or misdemeanor conviction for exploitive offenses against vulnerable victims may have any role in relation to this Memorandum of Understanding or in providing services to MWP inmates.
- D. Maintain records showing satisfactory proof of its due diligence in regard to the screening of individuals to be providing support services and provide copies of same to MWP upon request.
- E. Comply with all Montana Department of Corrections policies and MWP procedures regarding correspondence, and the inmate telephone and financial systems. Policies and procedures related to this requirement will be provided to the YWCA, upon request.
- F. Work with designated officials of the MWP to obtain security clearance and follow all facility guidelines for safety and security, as necessary.
- E. Maintain confidentiality of communications with inmates residing at the MWP.
- F. Communicate any questions or concerns to MWP.

3. CONFIDENTIALITY

For the purposes of legal compliance, both parties understand and agree to the following:

As a victim advocate service provider, and under the *Violence Against Women Act* and the *Family Violence Prevention and Services Act*, YWCA has specific legal obligations regarding confidentiality that apply to its domestic and sexual violence programs, including the victim advocate services provided under this MOU.

Generally, YWCA:

- A. Has a legal obligation to protect any personally identifiable information about a victim or client;
- B. Will not release any information about the victim or client without clearly informed, written and signed, reasonably time-limited consent of the client; and
- C. Will only share the specific information the client allows in a release; except where:
 - i. There is risk of harm to self and/or others;
 - ii. YWCA advocates are required by law to report suspected child abuse or neglect; or
 - iii. YWCA advocates are required by law to report information necessary to seeking help in medical emergencies.

For the purposes of this MOU, therefore, YWCA's confidentiality requirements stipulate that:

- A. A survivor of sexual abuse retains the right to choose when, how, and what personal information will be shared, or not shared, and with whom; and
- B. YWCA and its advocates are responsible for respecting and honoring the victim's wishes and safeguarding any of the victim's or client's information that they collect or hold.

4. PERIOD OF PERFORMANCE

This Memorandum of Understanding shall be in effect upon signatures of all parties. Either party may terminate this MOU without cause by giving written notice of termination to the other party at least 30 days prior to the effective termination date fixed in such notice.

5. LIAISONS AND NOTICE

- A. Jennie Hansen, Warden, (406)-247-5112 or successor serves as DEPARTMENT liaison.
- B. Erin Lambert, Programs Director, (406)-252-6303 or successor serves as Contractor's liaison.
- C. All notices and invoices required in this Memorandum of Understanding shall be in writing, properly addressed to the liaison in (A) and (B) above, and mailed first-class, postage prepaid. All notices sent via U.S. Postal Service, to the addresses noted above, are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

6. AMENDMENTS

This MOU may be amended by mutual agreement of the parties in writing at any time. The party which desires an amendment will propose the amendment in writing to the authorized representative, or designee, for the other party.

7. INTEGRATION

This Memorandum of Understanding contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Memorandum of Understanding, shall be binding or valid. This Memorandum of

Understanding shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the Memorandum of Understanding.

8. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of this Memorandum of Understanding is illegal, and void shall not affect the legality and enforceability of any other provision of this Memorandum of Understanding, unless the provisions are mutually dependent.

9. COMPLIANCE WITH LAWS

The parties shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. The Parties are the employers for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. The Parties will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. The parties shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by the Parties subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Parties agree that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

10. HOLD HARMLESS/INDEMNIFICATION

Each party agrees to protect, defend, indemnify, and hold harmless the other parties elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of the other parties employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

SIGNATURE

DEPARTMENT

DocuSigned by:
Jennie Hansen
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Jennie Hansen, Warden
Montana Women's Prison

7/16/2019

Date

CONTRACTOR

DocuSigned by:
Erin Lambert
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Billings YWCA

7/12/2019

Date

Approved for Legal Content by:

DocuSigned by:
Lorraine Schneider
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Legal Counsel
Department of Corrections

7/12/2019

Date

Approved as to Form by:

DocuSigned by:
Kristi Hernandez
3C5659C707644B2...

Procurement Officer
Department of Corrections

7/12/2019

Date